IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 14TH JUNE 2007 / 24TH JYAISHTA 1929

Crl.Rev.Pet.No. 191 of 1999()

CRA.14/1996 of SESSIONS COURT, KOZHIKOE DT. 19.6.98
CC.125/1993 of CHIEF JUDICIAL MAGISTRATE COURT, KOZHIKODE DT.13.11.195.

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REVN. PETITIONER: APPELLANT/ ACCUSED

P.B.RANJITH, OCCUPIER & MANAGER,
RELEVANT INDUSTRIES,
VAIDYARANGADI P.O.,
RAMANATTUKARA.

BY ADV. SRI.SUNNY MATHEW

RESPONDENT: RESPONDENT/ COMPLAINANT

THE ADDITIONAL INSPECTOR OF
FACTORIES, KOZHIKODE SOUTH,
KOZHIKODE 20.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 14/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J.

CRL.R.P.NO.191 OF 1999

DATED THIS THE 14TH JUNE 2007

ORDER

The revision petitioner is the accused in C.C.No.125/1993 who stands convicted for the offence under Section 92 of the Factories Act, 1948 and sentenced to pay a fine of Rs.1500/- and in default to undergo simple imprisonment for one month. The prosecution is for violation of the Factories Rules. The revision petitioner/accused was acquitted for the rest of the prosecution allegation except with respect to violation of Rule 123 of the Kerala Factories Rules which stipulates that in case of an injury to the workman as a result of any accident and the injury is likely to cause death or the injury is the result of any dangerous occurrence as specified in the schedule, the Manager shall forthwith send a notice intimating accident to the Deputy Chief Inspector or Chief Inspector.

The contention of the revision petitioner is that the injury sustained by PW4 is not an injury that attracted in Rule 123 (1) of the Rules. The above aspect was not considered by both the

courts below. The injury sustained by PW4 is the loss of the smallest toe in the right foot and half of the adjacent two toes. Evidently as per Rule 123(1) the injury should be one as is likely to cause his death or the result of a dangerous occurrence as specified in the schedule. It cannot be said that the injury sustained that the loss of little toe is likely to cause death. Hence, the first limb of Rule 123(1) will not be attracted. The injury was also not the result of any dangerous occurrence as specified in the schedule as is evident from the description of the occurrence mentioned in the schedule.

In the circumstances, I find that the conviction and sentence imposed by the revision petitioner cannot be sustained. The findings of the courts below are set aside. The revision petitioner is acquitted. The Crl.revision petition is allowed.

K.R.UDAYABHANU, JUDGE

ks.

K.R.UDAYABHANU, J

CRL.R.P.NO.191 of 1999

ORDER

DATE: 14-6-2007

ORDER ON CRL.M.P.NO. 688/1999 IN CRL.R.P.NO. 191 OF 1999

DISMISSED.

14-6-2007 SD/-K.R.UDAYABHANU,JUDGE

TRUE COPY

P.S.TO JUDGE